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OFFICE OF PETITIONS

In re Application of
Avramis et al.
Application No. 10/505,399
Filed: August 19, 2004
Attorney Docket No. ON/4-32344A

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2008, to revive the above-identified application.

The petition is not signed by the attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. George R Dohmann appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Dohmann desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Dohmann, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is GRANTED.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 1, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on May 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1,540, and (3) an adequate statement of unintentional delay¹.

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,050 extension of time fee submitted August 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as requested.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 1616 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GEORGE R DOHMANN
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